	Abilene Police Department Operating Procedures		
	Subject: <i>DWI/DUI</i>	Issued: 10/23/2014	TBP:

DWI Arrest Procedure

The use of the Standardized Field Sobriety Test is recommended. If the officer, during the investigation of a DWI offense, uses a test, he must use all three Standardized Field Sobriety Tests that have been validated by the National Highway Traffic Safety Administration unless the DWI suspect refuses to cooperate or safety factors limit the use of SFST's. These tests are:

- A. The Horizontal Gaze Nystagmus
- B. The Walk and Turn
- C. The One Leg Stand

DWI Transported

As soon as practical after a DWI arrest, the officer will take the offender to the Taylor County Jail for a breath test or to a hospital for a blood test.

DWI Specimens

If the offender, after receiving the required warnings, refuses to give a specimen, no specimen will be taken with the following exceptions:

If the offender will voluntarily give a blood specimen in lieu of a breath specimen, the arresting officer should transport the offender to an approved medical facility where the evidentiary blood sample will be collected.

Blood samples should only be taken by a physician, qualified technician, chemist, registered professional nurse or licensed vocational nurse.

A qualified person (listed above) may also be directed to draw blood from a person who is under arrest for a DWI related offense after the issuance of a search warrant.

DWI Search Warrants

When an officer arrests a subject for DWI they will offer the subject a breath or blood test. If the subject refuses to provide a sample, the officer shall make application for a Blood Search Warrant if any of the following is applicable:

- A. A person other than the suspect has suffered death or bodily injury in an accident and is transported to the hospital.
- B. A suspect that suffered bodily injury in an accident is transported to the hospital but refuses medical treatment at the hospital.
- C. Suspect is under arrest for PC 49.045 DWI with Child Passenger
- D. The suspect has two prior DWI convictions or one prior Intoxication Manslaughter conviction.



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- E. Suspect has been previously convicted of Intoxication Assault or DWI with Child Passenger.
- F. Suspect refuses SFST and an arrest is made
- G. A blood draw would be beneficial to prosecution due to unusual circumstances.

Upon completion of the Search Warrant Affidavit for Blood Draw, the officer making application shall have a supervisor proofread the Affidavit and proposed Search Warrant prior to contacting the appropriate magistrate. It is the supervisor's responsibility to proofread the Affidavit and Warrant to make sure the documents contain the necessary information.

The officer should contact the District Judge or County Court at Law Judge "on-call" in order to make application for the warrant. However, if the "on-call" magistrate is unavailable, another qualified magistrate should be contacted. The "on-call" list will be updated periodically.

The officer will contact the "on-call" magistrate to notify them you are emailing the proposed "Search Warrant Affidavit for Blood Draw" and "Search Warrant for Blood Draw" to his/her email address. The affidavit should be fully completed except for your signature.

Approximately five minutes after contacting the magistrate and emailing the documents, re-contact the magistrate and establish a Face Time/ Skype connection with him or her. The officer will swear to the accuracy of the affidavit and sign it while on Face Time/Skype. This will be the original to be returned to the magistrate. If the magistrate approves the Warrant Affidavit, he/she will sign the Search Warrant, (which he/she has printed out), sign it and email it back to the officer.

Three copies of the Search Warrant should be made.


The officer shall give the suspect a copy of the Search Warrant authorizing the blood draw (warrant only, not the affidavit). Upon completion of blood draw, the suspect will be given a copy of the Search Warrant Inventory. The officer will then fill out necessary paperwork and seal the blood box. The officer will then book the blood box into Property and Evidence.

The officer shall fill out the Search Warrant Return and make two copies. The documents should be distributed as follows:

DWI/ALR Coordinator: Original Search Warrant & Affidavit and original Return (to be given to Magistrate)

District Attorney: Copies of all documents

Records: Copies of all documents

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Exigent Circumstances Exception to a Blood Search Warrant

Pursuant to current case law, there may be exceptions to the obtaining of a blood search warrant if exigent circumstances exist such as the inability to locate a magistrate or the inability to complete the search warrant application process in a timely manner. Alcohol or drug dissipation and/or metabolization in and of itself does not constitute exigent circumstances. Exigent circumstances must be documented in the offense report.

Blood Specimen from Deceased Driver

When an officer is investigating a traffic accident involving the death of a DWI suspect, the officer will request the magistrate who pronounces the death to order a blood specimen be drawn from the deceased.

DWI Suspect Personal Blood Specimen

After a DWI suspect has given a specimen of their breath or blood for evidence, they have the right, within two (2) hours after the arrest, to have their own blood test taken for their evidence. The DWI suspect will be responsible for all fees charged for drawing and analyzing this blood sample and the officer will not provide the blood tube or any assistance other than transportation to and from the medical facility administering the test.


Videotape of DWI Suspect

The contact, investigation, arrest, statutory warning and post-arrest interview of a DWI suspect should be recorded on a vehicle MVR system unless the MVR system is inoperable or unavailable. If a physical arrest is made where weather or other factors prohibit the MVR recording of the statutory warning and post-interview, the video system at the jail should be utilized.

Prior to the post-arrest interview, the officer should identify himself and then identify the suspect by name and date of birth. The officer will advise the suspect of their Miranda rights and ensure that they verbally acknowledge and waive those rights.

DWI Enhancement

While processing the DWI suspect, a criminal history check for prior DWIs for the purpose of enhancing the punishment of the offense will be conducted. Previous DWI convictions, regardless of the conviction date, can be used for enhancement.

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DWI with Accidents

The following will apply for arrests for DWI suspects from accidents:

- A. If the offender is obviously not injured and does not request it, medical attention is not necessary.
- B. If the offender has apparent injuries but refuses medical treatment, they should be taken to the county jail for the breath test and videotape procedure. It will be the discretion of jail personnel if they are booked.
- C. If the offender is injured and transported to the hospital by ambulance, the DWI statutory warning and the blood sample procedures should be administered. The offender should be told that they are under arrest during the DWI/ALR process. However, a physical arrest is not necessary and the offender should be released after the process is completed if continuing medical treatment.

DUI by Minors

The following procedures will apply to processing a child or minor for Driving Under the Influence of Alcohol by Minors:

- A. If a minor has a detectable amount of alcohol on their breath, the officer may write a citation and take the minor home to release them to parents or another responsible adult or call the parents or another responsible adult to come to the scene to take control of the minor.
- B. If a child or a minor has an alcohol concentration of at least 0.02, the officer may submit the Administrative License Revocation (ALR) paperwork to have the person's driver's license suspended.
- C. A child may be taken into an area where adults are detained for the purpose of administering a breath test.
- D. If a child is offered a breath test, there must be a videotape made of the officer reading the child the statutory warning as well as the child's reply.
- E. At no time will a child be left alone or unattended in an adult detention facility.
- F. Minors between the ages of 17 and 21 may be processed like adults.